

FILED BY *AC* D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DEC 29 PM 4: 28

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TENNESSEE

ROBERT E. ("BOB") GIVEN, d/b/a
R.J.R PAINTING,

Plaintiff,

vs.

R & R MANAGEMENT, LLC,

Defendant.

No. 05-2136 B/P

SUPPLEMENTAL REPORT AND RECOMMENDATION
ON PLAINTIFF'S STATEMENT OF EXPENSES IN SUPPORT OF ATTORNEYS FEES
AS AWARDED BY THE COURT IN REPORT DATED DECEMBER 7, 2005

On December 7, 2005, this court submitted a Report and Recommendation on defendant R & R Management, LLC's ("R & R") Motion to Set Aside Default Judgment of Plaintiff, in which the court recommended that the motion be granted, but that sanctions be imposed against R & R in the form of attorneys fees and expenses for its conduct that caused plaintiff Robert E. Given to seek the entry of default by the clerk and to oppose R & R's motion to set aside the entry of default.

On December 14, 2005, Given's counsel, Greg Hays, filed his statement of expenses, setting forth legal services he rendered on behalf of Given. The total attorneys fees and expenses amounted to

35

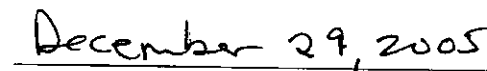
\$10,780.00.

The court has no reason to doubt that the fees set forth in the statement of expenses were, in fact, incurred. The court finds, however, that for purposes of determining an appropriate and just award, the total amount claimed of \$10,780.00 is not reasonable. Moreover, the 18.6 hours spent on Westlaw research and the 25.5 hours spent on drafting the response to defendant's motion to set aside default judgment are excessive. Finally, the 3.4 hours spent on drafting the response to defendant's motion to strike and the 6.6 hours spent on telephone calls and correspondence with the client are outside the scope of the sanction. Thus, the court will award 50% of the total amount claimed.

For these reasons, the court recommends that an award of \$5,390.00 in attorney's fees and expenses is reasonable and appropriate to reimburse the plaintiff and to sanction the conduct of the defendant.

Respectfully submitted.


TU M. PHAM
United States Magistrate Judge


Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 35 in case 2:05-CV-02136 was distributed by fax, mail, or direct printing on December 30, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT